

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 454

Citations Affected: IC 8-10.

Synopsis: Port commission powers. Authorizes the Indiana port commission to construct and finance: (1) maritime and nonmaritime port projects throughout Indiana for the transfer of goods and passengers between all modes of transportation; and (2) nonport projects to promote economic growth and development throughout Indiana. Specifies the powers of the commission with respect to these projects, including the conditions under which the commission may issue bonds and enter into various agreements. Prohibits the commission from making a pledge that would create a "moral obligation" on the part of the state to pay any part of the bond. Expands the types of studies that may be funded from the Indiana port fund to include studies of transportation by water, intermodal transportation, and other modes of transportation, and authorizes use of money in the fund for the purposes of IC 14-13-2 concerning the Little Calumet river basin commission. Exempts projects to be leased to a private party from certain public works laws. Makes certain provisions in IC 8-10-1 applicable to IC 8-10-4 (self-liquidating port projects). **(This conference committee report revises language prohibiting the commission from making a pledge that would create a moral obligation, revises language concerning the application of certain public works laws to projects to be leased to a private party, and deletes from the bill the language that: (1) requires the transportation finance authority to purchase the bridge crossing the Wabash River on State Highway 66 if federal funding is available to cover certain costs required to repair and operate the bridge; (2) provides for the operation of the bridge under the laws governing the operation and financing of bridges into adjoining states; (3) allows money collected from the use of the bridge in Mount Vernon to be used for the acquisition of the bridge on State Highway 66; and (4) changes the criteria for designation of an airport development zone in certain municipalities.)**

Effective: July 1, 2003.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 454 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 8-10-1-1 IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2003]: Sec. 1. In order to promote the
4 agricultural, industrial and commercial development of the state, and
5 to provide for the general welfare by the construction and operation, in
6 cooperation with the federal government, or otherwise, of a modern
7 port ~~on Lake Michigan and/or the Ohio River, and/or the Wabash~~
8 ~~River, system~~ with terminal facilities to accommodate water, rail,
9 truck, ~~and~~ air-borne, **and other forms of** transportation, the Indiana
10 Port Commission is hereby authorized and empowered to construct,
11 maintain and operate, in cooperation with the federal government, or
12 otherwise, at such ~~location on Lake Michigan and/or the Ohio River,~~
13 ~~and/or the Wabash River, locations~~ as shall be approved by the
14 governor, **projects, including without limitation** public ports with
15 terminal facilities and traffic exchange points **throughout Indiana** for
16 all forms of transportation, giving particular attention to the benefits
17 which may accrue to the state and its citizens from ~~the St. Lawrence~~
18 ~~Seaway, all forms of transportation,~~ and to issue ~~port~~ revenue bonds
19 of the state payable solely from revenues, to pay the cost of such
20 projects. **The commission's powers are not limited to ports and may**
21 **be exercised throughout Indiana for projects that enhance, foster,**
22 **aid, provide, or promote economic development, public-private**

1 **partnerships, and other industrial, commercial, business, and**
 2 **transportation purposes.**

3 SECTION 2. IC 8-10-1-2 IS AMENDED TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, the
 5 following words and terms shall have the following meanings, unless
 6 the context shall indicate another or different meaning or intent:

7 (a) The word "commission" shall mean the Indiana Port Commission
 8 created by section 3 of this chapter, or, if said commission shall be
 9 abolished, the board, body or commission succeeding to the principal
 10 functions thereof, or to whom the powers given by this chapter to the
 11 commission shall be given by law.

12 (b) The word "port" shall include **any combination of:**

13 (1) any place or places on Lake Michigan, the Ohio River, ~~and the~~
 14 Wabash River, **or other water bodies**, natural or artificial, in
 15 which water-borne vessels capable of carrying articles of
 16 commerce over navigable bodies of water may be loaded, unloaded
 17 or accommodated; **and**

18 (2) **nonmaritime port and traffic exchange points throughout**
 19 **Indiana for the transfer of goods and passengers between all**
 20 **modes of transportation.**

21 (c) The ~~words "port word~~ "project" shall include:

22 (1) any facilities, adjuncts and appurtenances necessary **or useful**
 23 to operate a modern port, **whether or not permanently situated**
 24 **at the port**, including:

25 (A) the dredging of approaches ~~thereto, and including, among~~
 26 ~~other things, but not limited to~~ **to a port; and**

27 (B) breakwaters, inner harbors, outer harbors, channels, canals,
 28 turning basins, docks, wharves, piers, quays, slips, loading,
 29 unloading, handling and storage equipment, warehouses,
 30 refrigerating plants and equipment, elevators for the handling
 31 and storage of grain, coal and other bulk commodities, terminal
 32 buildings or facilities, railroad equipment and trackage,
 33 roadways, airplane landing fields, parking lots, garages,
 34 automotive equipment, tugs, ferries, maintenance and
 35 construction vessels, communication systems, sewers, drains,
 36 works for the treatment of sewage, garbage and wastes, and the
 37 furnishing of utility service necessary to serve the property under
 38 the jurisdiction or control of the commission, and other buildings
 39 and facilities which the commission may deem necessary for the
 40 operation of the port; **and**

41 (2) **any other project located in Indiana, other than at a port,**
 42 **that the commission finds will enhance, foster, aid, provide, or**
 43 **promote economic development, public-private partnerships,**
 44 **and other industrial, commercial, business, and transportation**
 45 **purposes.**

46 (d) The word "cost" as applied to a port or ~~port~~ project ~~shall embrace~~
 47 **means:**

48 (1) the cost of construction;

49 (2) the cost of acquisition of all land, rights-of-way, property,
 50 rights, easements and interests, including lands under water and
 51 riparian rights acquired by the commission for ~~such~~ construction;

(3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which ~~such~~ buildings or structures may be moved;
 (4) the cost of relocating public roads;
 (5) **the cost of land or easements therefor, for roads;**
 (6) the cost of all machinery and equipment;
 (7) financing charges;
 (8) interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction;
 (9) **the cost of engineering and legal expenses, plans, specifications, surveys, and estimates of cost, traffic and revenues;**
 (10) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;
 (11) administrative expense; ~~and such~~
 (12) other expenses as may be necessary or incident to the **acquisition or** construction of the project, the financing of ~~such~~ **the acquisition or** construction, and the placing of the project in operation, **including the amount authorized in the resolution of the port commission providing for the issuance of port commission revenue bonds to be paid into any special funds from the proceeds of the bonds; and**
 (13) **any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering services, or any other cost described in this section that is incurred in connection with the acquisition or construction of a project may be regarded as part of the cost of the project and may be reimbursed out of the proceeds of port commission revenue bonds as authorized by this chapter.**

(e) The word "owner" shall include all individuals, copartnerships, associations or corporations having any title or interest in any property, rights, easements and other interests authorized to be acquired by this chapter.

(f) The word "revenues" shall mean all fees, tolls, rentals, gifts, grants, moneys and all other funds coming into the possession or under the control of the commission by virtue of the terms and provisions of this ~~chapter, article~~, but shall not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under provisions of this chapter.

(g) The word "public roads" shall include all public highways, roads, and streets in the state, whether maintained by the state, county, city, township or other political subdivision.

SECTION 3. IC 8-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and be impleaded. The commission hereby created is a body both corporate and politic in the state of Indiana, and the exercise by the commission of the powers conferred by this ~~chapter article~~ in the construction, operation and maintenance of a port **or** project shall be deemed and

1 held to be essential governmental functions of the state, but the
 2 commission shall not however be immune from liability by reason
 3 thereof.

4 (b) The commission shall consist of seven (7) members, appointed
 5 by the governor, no more than four (4) of whom shall be members of
 6 the same political party. The members shall be residents of the state,
 7 and shall have been qualified electors therein for a period of at least
 8 five (5) years next preceding their appointment. The members of the
 9 commission first appointed shall continue in office for terms expiring,
 10 in the case of two (2) members, on July 1, 1962, and in the case of
 11 three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965 and
 12 the first two (2) members appointed after January 1, 1975, shall
 13 continue in office for terms expiring July 1, 1977 for one (1) member
 14 and July 1, 1979 for the other member, respectively, and until their
 15 respective successors shall be duly appointed and qualified. The term
 16 of any member of the commission first appointed shall be designated
 17 by the governor. The successor of each such member shall be
 18 appointed for a term of four (4) years, except that any person appointed
 19 to fill a vacancy shall be appointed to serve only for the unexpired
 20 term, and a member of the commission shall be eligible for
 21 reappointment. The governor may at any time remove any member of
 22 the commission for misfeasance, nonfeasance, or malfeasance in office.
 23 The members of the commission shall, within ten (10) days after their
 24 appointment, meet and qualify by subscribing an oath to discharge
 25 honestly and faithfully the duties of their office as members of such
 26 commission. The commission shall thereafter elect one (1) of the
 27 members as chairman and another as vice-chairman, and shall appoint
 28 a secretary-treasurer who need not be a member of the commission.
 29 Four (4) members of the commission shall constitute a quorum and the
 30 affirmative vote of four (4) members shall be necessary for any official
 31 action taken by the commission. No vacancy in the membership of the
 32 commission shall impair the rights of a quorum to exercise all the
 33 rights and perform all the duties of the commission.

34 (c) Before the issuance of any ~~port~~ revenue bonds under the
 35 provisions of this ~~chapter~~, **article**, each appointed member of the
 36 commission shall give a surety bond to the state in the penal sum of
 37 twenty-five thousand dollars (\$25,000) and the secretary-treasurer shall
 38 give a surety bond to the state in the penal sum of fifty thousand dollars
 39 (\$50,000). Each such surety bond ~~to~~ **must** be conditioned upon the
 40 faithful performance of the duties of the office, to be executed by a
 41 surety company authorized to transact business in the state as surety
 42 and to be approved by the governor and filed in the office of the
 43 secretary of state.

44 (d) Each appointed member of the commission shall receive an
 45 annual salary of seven thousand, five hundred dollars (\$7,500), payable
 46 in monthly instalments. However, no members of such commission as
 47 appointed hereunder shall receive any salary except a per diem as fixed
 48 and approved by the budget director until said commission is able to
 49 carry on the full operations as intended by this chapter, and the budget
 50 director, subject to the approval of the governor of the state of Indiana,
 51 shall determine when said salaries for said commission members shall

commence. The governor shall, however, appoint said members as herein provided within a period of sixty (60) days following the effective date of this chapter.

(e) Each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties.

(f) All expenses incurred in carrying out the provisions of this chapter article shall be payable solely from funds provided under the authority of this chapter article and no liability or obligation shall be incurred by the commission hereunder beyond the extent to which moneys shall have been provided under the authority of this chapter article.

SECTION 4. IC 8-10-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~Port~~ Revenue bonds issued under the provisions of this chapter article shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds pledged for their payment as authorized in this chapter, article, unless such bonds are refunded by refunding bonds, issued under the provisions of this chapter, which refunding bonds shall be payable solely from funds pledged for their payment as authorized herein. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the state of Indiana, or of any political subdivision thereof, but are payable solely from revenues pledged for their payment. All expenses incurred in carrying out the provisions of this chapter article shall be payable solely from funds provided under the authority of this chapter article and nothing in this chapter article contained shall be construed to authorize the commission to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

SECTION 5. IC 8-10-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. Except as specifically authorized by the general assembly, the commission may not pledge, in any form, to:

- (1) seek funding from the state in the event of any default in the payment of revenue bonds; or
- (2) specify, in any form, in an agreement related to revenue bonds that money appropriated by the general assembly may or shall be deposited in a debt service fund or reserve fund for the revenue bonds.

SECTION 6. IC 8-10-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The Indiana port commission may:

- (1) prepare sketches, plans, and descriptive material relating to such ports or port projects, as in its discretion may seem feasible, to compile data and prepare literature as to the necessity or advisability thereof, and to do other acts and things it considers necessary to promote such public port or port the ports or projects and deems to be in the public interest;
- (2) carry on, in its discretion, negotiations and enter into agreements and contracts with the federal government or agencies

of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake Michigan, the Ohio River, the Wabash River, or in waters adjacent to Indiana;

(3) locate and acquire a suitable ~~site~~ **sites** for ~~such public port or port ports or~~ projects;

(4) construct, develop, maintain, and operate the same in cooperation with the federal government, any agency of the federal government, a corporation established under IC 36-7-23, or otherwise, in such a manner and on such terms as will, in the discretion of the commission, best serve the commercial, industrial, and agricultural interests of the state;

(5) provide adequate port and terminal facilities to accommodate water, rail, truck, and airborne transportation; and

(6) provide a traffic exchange point for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens by the opening of the St. Lawrence Seaway and river transportation.

(b) The title to all property included in any port ~~or~~ project shall be taken in the name of, and shall be in, the state of Indiana.

SECTION 7. IC 8-10-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The commission is authorized and empowered **to do the following**:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) To adopt an official seal which shall not be the seal of the state of Indiana.

(3) To maintain a principal office and sub-offices at such place or places within the state as it may designate.

(4) To sue and be sued, and to plead and be impleaded in its own name. However, actions at law against the commission shall be brought in the circuit court of the county in which the principal office of the commission is located or in the circuit court of the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the commission by leaving a copy thereof at the principal office of the commission with the person in charge thereof or with the secretary of the commission. However, no such action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is served upon the attorney general of Indiana.

(5) To acquire, lease, construct, maintain, repair, police, and operate a port or ~~port~~ project as provided in this chapter, and to establish rules and regulations for the use of ~~such the~~ port or ~~port~~ project, and other property subject to the jurisdiction and control of the commission.

(6) To issue ~~port both taxable and tax exempt~~ revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or ~~port~~ project.

(7) To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares, merchandise, or articles of commerce in, on, or around the port or port project.

(8) To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or port project.

(9) To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(10) To designate the location and establish, limit, and control points of ingress to and egress from ~~the a port property: or project.~~

(11) To lease to others for development or operation such portions of any port or port project, on such terms and conditions as the commission shall deem advisable.

(12) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than twenty-five thousand dollars (\$25,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in ~~Marion County, Indiana; the~~ **county where the construction will occur** and in such other publications as the commission shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The commission may reject any and all bids. A bond with good and sufficient surety as shall be approved by the commission, shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

(13) To construct, assemble, or otherwise build, own, lease, operate, manage, or otherwise control any project throughout Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities within Indiana.

~~(13)~~ (14) To employ an executive director or manager, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation, but no compensation of any employee of the commission shall exceed the compensation of the highest paid officer or employee of the state. ~~However, the employment of an attorney shall be~~

subject to such approval of the attorney general as may be required by law.

~~(14)~~ (15) To receive and accept from any federal agency grants for or in aid of the construction of any port or ~~port~~ project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

~~(15)~~ (16) To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

~~(16)~~ (17) To do all acts and things necessary or proper to carry out the powers expressly granted in this ~~chapter~~ and article.

~~(17)~~ (18) To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the commission.

SECTION 8. IC 8-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. If the commission shall find it necessary to change the location of any portion of any public road, **highway**, railroad, or public utility facility, it shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway, or railroad or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility, shall be ascertained and paid by the commission as a part of the cost of ~~such the~~ port or ~~port~~ project. The commission shall have authority to petition the circuit court of the county wherein is situated any public road or part thereof, affected by the location therein of any port or ~~port~~ project, for the vacation or relocation of such road or any part thereof with the same force and effect as statutes in effect on March 2, 1961, to the inhabitants of any municipality or governmental subdivision of the state. The proceedings upon such petition, whether it be for the appointment of appraisers or otherwise, shall be the same as provided by statutes in effect on March 2, 1961, for similar proceedings upon such petitions. In addition to the foregoing powers, the commission and its authorized agents and employees, after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are necessary or proper for the purposes of this ~~chapter~~, **article**, and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; provided, that before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved at least five (5) days in advance of such entry, and provided, that no survey, sounding, drilling, and examination shall be made between the rails, or so close to a railroad track, as would render said track unusable. The commission shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands,

1 waters and premises, as a result of such activities. The state of Indiana,
 2 subject to the approval of the governor, hereby consents to the use of
 3 lands owned by it, including lands lying under water and riparian
 4 rights, which are necessary or proper for the construction or operation
 5 of any port or ~~port~~ project, provided adequate compensation is made for
 6 such use. The commission shall also have power to make reasonable
 7 regulations for the installation, construction, maintenance, repair,
 8 renewal, relocation, and removal of tracks, pipes, mains, conduits,
 9 cables, wires, towers, poles, and other equipment and appliances
 10 (referred to in this section as "public utility facilities") of any public
 11 utility in, on, along, over, or under any port or ~~port~~ project. Whenever
 12 the commission shall determine that it is necessary that any such public
 13 utility facilities which are, on or after March 2, 1961, located in, on,
 14 along, over, or under any ~~such~~ port or ~~port~~ project should be relocated
 15 or should be removed from ~~such the~~ port or ~~port~~ project, the public
 16 utility owning or operating such facilities shall relocate or remove the
 17 same in accordance with the order of the commission. ~~provided;~~
 18 However, ~~that~~ the cost and expenses of such relocation or removal,
 19 including the cost of installing such facilities in a new location or new
 20 locations, and the cost of any lands, or any rights or interests in lands,
 21 and any other rights, acquired to accomplish such relocation or
 22 removal, shall be ascertained and paid by the commission as a part of
 23 the cost of ~~such the~~ port or ~~port~~ project, excepting, however, cases in
 24 which such equipment or facilities are located within the limits of
 25 highways or public thoroughfares being constructed, reconstructed, or
 26 improved under the provisions of this chapter. In case of any such
 27 relocation or removal of facilities, the public utility owning or
 28 operating the same, its successors or assigns, may maintain and operate
 29 such facilities, with the necessary appurtenances, in the new location
 30 or new locations, for as long a period, and upon the same terms and
 31 conditions, as it had the right to maintain and operate such facilities in
 32 their former location or locations subject, however, to the state's right
 33 of regulation under its police powers.

34 SECTION 9. IC 8-10-1-9 IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission shall have
 36 power to adopt such by-laws, rules and regulations as it may deem
 37 advisable for the control and regulation of any port or ~~port~~ project or
 38 traffic on any port or ~~port~~ project, for the protection of and preservation
 39 of property under its jurisdiction and control, and for the maintenance
 40 and preservation of good order within the property under its control,
 41 and such by-laws, rules and regulations shall be published in a
 42 newspaper of general circulation in Marion County, Indiana, and in
 43 such other manner as the commission shall prescribe; however, such
 44 rules and regulations shall provide that public officers shall be afforded
 45 ready access, while in performance of their official duty, to all property
 46 under the jurisdiction or control of the commission without the
 47 payment of tolls.

48 (b) Such rules and regulations adopted under this section shall be
 49 adopted under IC 4-22-2.

50 (c) A person who violates a rule or regulation of the commission
 51 commits a Class C infraction.

SECTION 10. IC 8-10-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The commission is hereby authorized and empowered to acquire by purchase whenever it shall deem such purchase expedient, any land, property, rights, right-of-ways, franchises, easements and other interests in lands, including lands under water and riparian rights, as it may deem necessary or convenient for the construction and operation of any port or port project, upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the commission and the owner thereof, and to take title thereto in the name of the state.

(b) The commission is hereby further authorized and empowered to sell, transfer and convey any such land or any interest therein so acquired, or any portion thereof, when the same shall no longer be needed for such purposes. ~~and it~~ **The commission** is further authorized and empowered to transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any port or port project, or as otherwise required under the provisions of this chapter. ~~Provided, That article. However,~~ no such sale shall be made without **first obtaining** the approval of the governor, ~~first obtained~~ and **a sale may not be made** at ~~not~~ less than the appraised value established by three (3) independent appraisers appointed by the governor. The commission shall be authorized to restrict the use of any land so sold by it and provide for a reversion to the commission in the event the land shall not be used for the purpose represented by the purchaser, and such restrictions and reversions shall be set out in appropriate covenants in the deeds of conveyance, which deeds shall be subject to the approval of the governor.

(c) The commission shall also be authorized to lease, or grant options to lease, to others for development any portion of the land owned by the commission, on such terms as the commission shall determine to be advantageous. All such leases or options to lease which leases cover a period of more than four (4) years shall be subject to the approval of the governor. Leases of lands under the jurisdiction or control of the commission shall be made only for such uses and purposes as are calculated to contribute to the growth and development of ~~the port and~~ **ports, terminal facilities, and projects** under the jurisdiction or control of the commission. In the event the commission shall lease to others a building or structure financed by the issuance of revenue bonds **under IC 8-10-4**, the rental shall be in an amount at least sufficient to pay the interest on and principal of the amount of such bonds representing the cost of such building or structure to the extent such interest and principal is payable during the term of the lease, as well as to pay the cost of maintenance, repair and insurance for such building and a reasonable portion of the commission's administrative expense incurred during the term of the lease which is allocable to such building or structure.

(d) **No tenant, lessee, licensee, owner of real estate located within a port or project, or other person or entity has any right, claim, title, or interest in any real estate, personal property, or common property owned by the commission, a port, a project, or the state, unless a written agreement entered into by the commission**

expressly provides:

- (1) the exact nature and extent of the right, claim, title, or interest;
- (2) all the conditions under which the right, claim, title, or interest is granted; and
- (3) a legal or complete description of the specific property.

SECTION 11. IC 8-10-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The commission is hereby authorized and empowered to acquire by appropriation, under the provisions of the eminent domain law of the state, any land, including lands under water and riparian rights, property, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any port or port project. The commission shall also be empowered to exercise such powers of eminent domain as may be conferred upon the commission by an act of Congress of the United States now in force, or which may hereafter be enacted. Title to the property condemned shall be taken in the name of the state of Indiana. Nothing herein shall authorize the commission to take or disturb property or facilities constituting all or part of any presently existing or operating public port and nothing herein shall authorize the commission to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the commission excepting however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares.

SECTION 12. IC 8-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the following:

- (1) Acquisition of land including lands under water and riparian rights, or options for the purchase of such land for a port or project site, and incidental expenses incurred in connection with such acquisition. ~~and for~~
- (2) Studies in connection with the port or project. ~~and including~~
- (3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation.
- (4) Transfers to the fund established by IC 14-13-2-19 to carry out the purposes of IC 14-13-2.
- (5) Administrative expenses of the commission. ~~Said~~

The fund shall be held in the name of the Indiana port commission, shall be administered by the commission, and all expenditures therefrom shall be made by the commission, subject, however, to the approval by governor and the state budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition

of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others; provided, however, that not to exceed one hundred thousand dollars (\$100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port **or project** site, and incidental expenses incurred in connection with such acquisition.

(b) Upon the sale of **port** revenue bonds for any port **or project**, the funds expended from the Indiana port fund in connection with the development of such **port or project** and any obligation or expense incurred by the commission for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such **port or project** shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 13. IC 8-10-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The commission is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of **port** revenue bonds of the state for the purpose of paying all or any part of the cost of a port **or project under this chapter or IC 8-10-4**. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding fifty (50) years from the date thereof, as may be determined by the commission, and may be made redeemable before maturity, at the option of the commission, at such price or prices and under such terms and conditions as may be fixed by the commission in the authorizing resolution.

(b) The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the commission, by its chairman or vice chairman or by the facsimile signature of such chairman or vice chairman, and the official seal of the commission, or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the

1 same as if he had remained in office until such delivery.

2 (d) All bonds issued under this ~~chapter~~ **article** shall have and are
3 hereby declared to have all the qualities and incidents of negotiable
4 instruments under the negotiable instruments law of the state of
5 Indiana.

6 (e) The bonds may be issued in coupon or in registered form, or both,
7 as the commission may determine, and provision may be made for the
8 registration of any coupon bonds as to principal alone and also as to
9 both principal and interest, and for the reconversion into coupon bonds
10 of any bonds registered as to both principal and interest.

11 (f) The bonds shall be sold at public sale in accordance with
12 IC 4-1-5, **except as provided in IC 8-10-4.**

13 **(g) No action to contest the validity of any bonds issued by the**
14 **commission under this article shall be commenced more than thirty**
15 **(30) days following the adoption of the resolution approving the**
16 **bonds as provided in this article.**

17 SECTION 14. IC 8-10-1-14 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The proceeds of the
19 bonds of each issue shall be used solely for the payment of the cost of
20 the port **or** project for which such bonds shall have been issued, and
21 shall be disbursed in such manner and under such restrictions, if any,
22 as the commission may provide in the resolution authorizing the
23 issuance of such bonds or in the trust agreement mentioned in this
24 chapter securing the same. If the proceeds of the bonds of any issue, by
25 error of estimates or otherwise, shall be less than such cost, additional
26 bonds may in like manner be issued to provide the amount of such
27 deficit, and, unless otherwise provided in the resolution authorizing the
28 issuance of such bonds or in the trust agreement securing the same,
29 shall be deemed to be of the same issue and shall be entitled to
30 payment from that same fund without preference or priority of the
31 bonds first issued. If the proceeds of the bonds of any issue shall
32 exceed the cost of the port **or** project for which the same shall have
33 been issued, the surplus shall be deposited to the credit of the sinking
34 fund for such bonds. Prior to the preparation of definitive bonds, the
35 commission may, under like restrictions, issue interim receipts or
36 temporary bonds, with or without coupons, exchangeable for definitive
37 bonds when such bonds shall have been executed and are available for
38 delivery. The commission may also provide for the replacement of any
39 bonds which shall become mutilated or shall be destroyed or lost.
40 **Bonds and any other instruments or the security for the bonds and**
41 **other instruments that are authorized by this article** may be issued
42 under the provisions of this ~~chapter~~ **article** without obtaining the
43 consent of any officer, department, division, commission, board,
44 bureau, or agency of the state, and without any other proceedings or the
45 happening of any other conditions or things than those proceedings,
46 conditions, or things which are specifically required by this chapter.

47 SECTION 15. IC 8-10-1-15 IS AMENDED TO READ AS
48 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The commission is
49 hereby authorized to provide by resolution for the issuance of ~~port~~
50 **revenue** refunding bonds of the state payable solely from revenues for
51 the purpose of refunding any bonds then outstanding which shall have

1 been issued under the provisions of **section 13** of this chapter or
 2 **IC 8-10-4-2**, including the payment of any redemption premium
 3 thereon and any interest accrued or to accrue to the date of redemption
 4 of such bonds, and, if deemed advisable by the commission, for the
 5 additional purpose of constructing improvements, extensions, or
 6 enlargements of the port or project in connection with which the bonds
 7 to be refunded shall have been issued. The issuance of such bonds, the
 8 maturities and other details thereof, the rights of the holders thereof
 9 and the rights, duties and obligations of the commission in respect of
 10 the same, shall be governed by the provisions of this ~~chapter~~ **article**
 11 insofar as the same may be applicable.

12 SECTION 16. IC 8-10-1-16 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. In the discretion of
 14 the commission any bonds issued under the provisions of this act may
 15 be secured by a trust agreement by and between the commission and a
 16 corporate trustee, which may be any trust company or bank having the
 17 powers of a trust company within the state, **except as provided in**
 18 **IC 8-10-4**. Any resolution adopted by the commission providing for the
 19 issuance of **revenue** bonds and any trust agreement pursuant to which
 20 such bonds are issued may pledge or assign all or any portion of the
 21 revenues received or to be received by the commission except such part
 22 as may be necessary to pay the cost of the commission's administrative
 23 expenses, operation, maintenance and repair and to provide reserves
 24 therefor and depreciation reserves required by any bond resolution
 25 adopted or trust agreement executed by the commission, but the
 26 commission shall not convey or mortgage any port ~~port~~ or project or
 27 any part thereof, **except for self liquidating projects under IC 8-10-4**.
 28 In authorizing the issuance of bonds for any particular port or project,
 29 ~~undertaken in connection with the development of the port~~, the
 30 commission may limit the amount of such bonds that may be issued as
 31 a first lien and charge against the revenues pledged to the payment of
 32 such bonds or the commission may authorize the issuance from time to
 33 time thereafter of additional bonds secured by the same lien to provide
 34 funds for the completion of the port or project on account of which the
 35 original bonds were issued, or to provide funds to pay the cost of
 36 additional ~~port~~ projects undertaken in connection with the development
 37 of the port or **project**, or for both such purposes. Such additional bonds
 38 shall be issued on such terms and conditions as may be provided in the
 39 bond resolution or resolutions adopted by the commission and in the
 40 trust agreement or any agreement supplemental thereto and may be
 41 secured equally and ratably without preference, priority or distinction
 42 with the original issue of bonds or may be made junior thereto. Any
 43 pledge or assignment made by the commission pursuant hereto shall be
 44 valid and binding from the time that the pledge or assignment is made
 45 and the revenues so pledged and thereafter received by the commission
 46 shall immediately be subject to the lien of such pledge or assignment
 47 without physical delivery thereof or further act. The lien of such pledge
 48 or assignment shall be valid and binding against all parties having
 49 claims of any kind in tort, contract or otherwise against the commission
 50 irrespective of whether such parties have notice thereof. Neither the

1 resolution nor any trust agreement by which a pledge is created or
 2 assignment made need be filed or recorded except in the records of the
 3 commission. Any such trust agreement or any resolution providing for
 4 the issuance of such bonds may contain such provisions for protecting
 5 and enforcing the rights and remedies of the bondholders as may be
 6 reasonable and proper and not in violation of law, including, but not
 7 limited to, covenants setting forth the duties of the commission in
 8 relation to the acquisition of property and the construction,
 9 improvement, maintenance, repair, operation and insurance of the port
 10 **or** project in connection with which such bonds shall have been
 11 authorized, the rates of fees, tolls, rentals or other charges, to be
 12 collected for the use of the project, and the custody, safeguarding and
 13 application of all moneys, and provisions for the employment of
 14 consulting engineers in connection with the construction or operation
 15 of such project. It shall be lawful for any bank or trust company
 16 incorporated under the laws of the state which may act as depository of
 17 the proceeds of bonds or other funds of the commission, to furnish such
 18 indemnifying bonds or to pledge such securities as may be required by
 19 the commission. Any such trust agreement may set forth the rights and
 20 remedies of the bondholders and of the trustee, and may restrict the
 21 individual right of action by bondholders as is customary in trust
 22 agreements or trust indentures securing bonds or debentures of private
 23 corporations. In addition to the foregoing, any such trust agreement
 24 may contain such other provisions as the commission may deem
 25 reasonable and proper for the security of the bondholders. All expenses
 26 incurred in carrying out the provisions of any such trust agreement may
 27 be treated as a part of the cost of the operation of the port **or** project.

28 SECTION 17. IC 8-10-1-17 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commission
 30 shall be authorized to fix, review, charge and collect fees, tolls, rentals,
 31 and other charges for the use of the ~~port, port project, ports, projects,~~
 32 terminal facilities, and lands under the jurisdiction or control of the
 33 commission or services rendered by the commission, and the aggregate
 34 thereof shall provide revenues at least sufficient to pay the cost of
 35 operation, maintenance, and repair of the port **or project** and terminal
 36 facilities, including the administration expenses of the commission, and
 37 in case revenue bonds are issued, sufficient to pay the interest on and
 38 principal of the bonds in accordance with their terms, and also
 39 sufficient to establish and maintain reserves created for all such
 40 purposes and for depreciation purposes. The fixing and collection of
 41 such fees, tolls, rentals and other charges and the expenditure of the
 42 revenues derived therefrom shall not be subject to the supervision or
 43 regulation by any other officer, commission, board, bureau or agency
 44 of the state. After such bonds have been fully paid and discharged and
 45 all obligations under any trust agreement securing the same have been
 46 performed or satisfied, any remaining surplus net revenues and all
 47 surplus net revenues thereafter derived from the operation of ~~such the~~
 48 port **or project** shall be paid into the state general fund.

49 SECTION 18. IC 8-10-1-19 IS AMENDED TO READ AS
 50 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Any holder of
 51 bonds issued under the provisions of this chapter or any of the coupons

appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given in this chapter may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the statutes of the state or granted under this chapter or under such trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the commission or by any officer thereof, including the fixing, charging, and collecting of fees, tolls, rentals, or other charges for the use of the port or ~~port~~ project.

SECTION 19. IC 8-10-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. Each port or ~~port~~ project, as defined in section 2 of this chapter, when constructed and ~~opened to traffic~~ **placed in operation** shall be maintained and kept in good condition and repair by the commission. Each such project shall also be policed and operated by such force of police, tolltakers, and other operating employees as the commission may in its discretion employ. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.

SECTION 20. IC 8-10-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. All counties, cities, towns, townships and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the commission at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real **or personal** property owned by any such municipality or governmental subdivision which may be necessary or convenient to the effectuation of the authorized purposes of the commission.

SECTION 21. IC 8-10-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) The commission shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of the ~~project:~~ **commission's ports and projects.** The accounts, books and records of the Indiana port commission shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the ~~port project:~~ **commission's ports and projects.**

(b) **The commission shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor. Each member of the general assembly shall receive**

1 **a copy of the report by making a request for it to the chairman of**
 2 **the commission. Each report shall set forth a complete operating**
 3 **and financial statement for the commission during the fiscal year**
 4 **it covers.**

5 SECTION 22. IC 8-10-1-25 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. Revenue bonds
 7 issued by the commission under the provisions of this ~~chapter~~ **article**
 8 shall constitute legal investments for any private trust funds, and the
 9 funds of any banks, trust companies, insurance companies, building
 10 and loan associations, credit unions, banks of discount and deposit,
 11 savings banks, loan and trust and safe deposit companies, rural loan
 12 and savings associations, guaranty loan and savings associations,
 13 mortgage guaranty companies, small loan companies, and industrial
 14 loan and investment companies, and any other financial institutions
 15 organized under Indiana statutes. **The bonds are also made securities**
 16 **that may be deposited with and received by all public officers and**
 17 **bodies of Indiana or any agency or political subdivision of Indiana**
 18 **and all municipalities and public commissions for any purpose for**
 19 **which the deposit of bonds or other obligations of Indiana is now**
 20 **or may be later authorized by law.**

21 SECTION 23. IC 8-10-1-27 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The exercise of
 23 the powers granted by this ~~chapter~~ **article** will be in all respects for the
 24 benefit of the people of the state, for the increase of their commerce
 25 and prosperity, and for the improvement of their health and living
 26 conditions.

27 (b) As the operation and maintenance of a port **or** project by the
 28 commission will constitute the performance of essential governmental
 29 functions, the commission shall not be required to pay any taxes or
 30 assessments upon any port **or** project or any property acquired or used
 31 by the commission under the provisions of this ~~chapter~~ **article** or upon
 32 the income therefrom. The bonds issued by the commission, the
 33 interest thereon, the proceeds received by a holder from the sale of
 34 such bonds to the extent of the holder's cost of acquisition, or proceeds
 35 received upon redemption prior to maturity or proceeds received at
 36 maturity, and the receipt of such interest and proceeds shall be exempt
 37 from taxation in the state of Indiana for all purposes except the
 38 financial institutions tax imposed under IC 6-5.5 or a state inheritance
 39 tax imposed under IC 6-4.1.

40 (c) Notwithstanding any other statute, a lessee's leasehold estate in
 41 land that is part of a port and that is owned by the state or the
 42 commission is exempt from property taxation. **However, an**
 43 **exemption under this subsection is not available for land not**
 44 **located at a port.**

45 SECTION 24. IC 8-10-1-30 IS ADDED TO THE INDIANA CODE
 46 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 47 1, 2003]: **Sec. 30. The state pledges and agrees with the holders of**
 48 **any bonds issued under this article that the state will not limit or**
 49 **alter the rights vested in the commission to fulfill the terms of any**
 50 **agreements made with the holders or in any way impair the rights**
 51 **or remedies of the holders until the bonds, together with the**

1 **interest, with interest on any unpaid installments of interest, and**
 2 **all costs and expenses in connection with any action or proceeding**
 3 **by or on behalf of the holders, are fully met and discharged. The**
 4 **commission is authorized to include this pledge and agreement of**
 5 **the state in any agreement with the holders of the bonds.**

6 SECTION 25. IC 8-10-2-2 IS AMENDED TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) In addition to the powers
 8 conferred upon the Indiana port commission by other provisions of this
 9 article, the commission, whenever it finds that the economic welfare of
 10 the state would thereby be benefited, by additional employment
 11 opportunities, or by additional diversification of industry within the
 12 state, or by increased income or prosperity to the state and its residents,
 13 or for any other reason, shall have the power to acquire, construct,
 14 maintain, repair, police, and lease to others such facilities for
 15 manufacturing, storage, or processing of goods, or for the carrying on
 16 of commercial, business, or recreational activities as the commission
 17 further finds will increase the ~~water-borne~~ traffic into or out of the ~~port~~
 18 **project**. Any such facilities and the site thereof shall not be exempt
 19 from property taxation, and the lessee in any lease thereof shall agree
 20 to pay all property taxes levied on such facilities and the site thereof.

21 (b) In exercising the powers granted in this section, the commission
 22 shall have all the powers granted to it by this article, in connection with
 23 a ~~port~~ project, and the term "~~port~~" "project", as used in IC 8-10-1, shall
 24 be deemed to include facilities, adjuncts, and appurtenances of the
 25 character referred to in this section.

26 (c) It is further declared that the acquisition, construction,
 27 maintenance, repair, policing of, and leasing to others of such facilities
 28 under the conditions set forth in this section is a public purpose.

29 (d) Nothing in this section shall authorize the Indiana port
 30 commission to take, condemn, or disturb any property right or interest
 31 in property, existing on March 10, 1967, including permits and
 32 authorities to fill and reclaim submerged lands, or any facilities
 33 constituting all or part of any operating property or any private or
 34 public port. The Indiana port commission shall make reimbursement
 35 for any actual damage to any public or private facilities, including but
 36 not limited to breakwaters, water intakes, wharves, piers, boat docks,
 37 warehouses, and pipeline equipment resulting from the exercise by it
 38 of any powers granted to it by this section.

39 SECTION 26. IC 8-10-4-1 IS AMENDED TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this chapter,
 41 "self-liquidating ~~port~~ project" shall mean a ~~port~~ project for which a
 42 lease or leases have been executed providing for payment of rental in
 43 an amount at least sufficient to pay the interest and principal of such
 44 bonds to be issued to finance the cost of such ~~port~~ project and further
 45 providing for the payment by the lessee or lessees of all costs of
 46 maintenance, repair, and insurance of such ~~port~~ project.

47 (b) Other words and terms used in this chapter shall have the same
 48 meaning as in other provisions of this article, unless otherwise
 49 specifically provided.

50 SECTION 27. IC 8-10-4-2 IS AMENDED TO READ AS FOLLOWS
 51 [EFFECTIVE JULY 1, 2003]: Sec. 2. In addition to the powers

conferred upon the Indiana port commission by other provisions of this article, the commission, in connection with any self-liquidating port project, shall have the following powers notwithstanding any other provision of this article to the contrary:

(a) The revenue bonds issued by the commission to finance the cost of such self-liquidating port project may be issued without regard to any maximum interest rate limitation in this article or any other law.

(b) The revenue bonds issued by the commission to finance the cost of such self-liquidating port project may be sold in such manner, either at public or private sale, as the commission may determine, and the provisions of IC 4-1-5 shall not be applicable to such sale.

(c) IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9, IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a project to be leased to a private party whose payments are expected to be sufficient to pay all debt service on bonds issued by the commission to finance the project.

SECTION 28. IC 8-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Any lease of a port project may provide that the lessee, as its reasonable portion of the commission's administrative expense incurred during the term of the lease which the lessee is required to pay by IC 8-10-1-10, shall pay to the commission for the use of the harbor, the public docking facilities and public wharves and piers, all harbor, dockage, and wharfage charges established by the commission.

SECTION 29. IC 8-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The cost of any port project may include, instead of the cost of the acquisition of the land constituting the site of such port project, the value of such land as determined by the commission. The proceeds of any revenue bonds representing the value of such land shall be deposited in the Indiana port fund.

SECTION 30. IC 8-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may contract for the use of any license, process or device, whether patented or not, which the commission finds is necessary for the operation of any port project, and may permit the use thereof by any lessee on such terms and conditions as the commission may determine. The cost of such license, process or device may be included as part of the cost of the port project.

SECTION 31. IC 8-10-4-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. The following provisions apply to this chapter:**

- (1) IC 8-10-1-4.**
- (2) IC 8-10-1-10.**
- (3) IC 8-10-1-13.**
- (4) IC 8-10-1-14.**
- (5) IC 8-10-1-15.**
- (6) IC 8-10-1-16.**

- 1 **(7) IC 8-10-1-19.**
- 2 **(8) IC 8-10-1-25.**
- 3 **(9) IC 8-10-1-27.**
- 4 **(10) IC 8-10-1-30.**

(Reference is to ESB 454 as reprinted April 9, 2003.)

Conference Committee Report
on
Engrossed Senate Bill 454

Signed by:

Senator Kenley
Chairperson

Representative Weinzapfel

Senator Rogers

Representative Murphy

Senate Conferees

House Conferees